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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,912	08/16/2000	Greg Alan Bengault	7784-000129	3577
7590 02/21/2006 Harness, Dickey & Pierce, P.L.C. P.O. Box 828 Bloomfield Hills, MI 48303			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2617	PAPER NUMBER
DATE MAILED: 02/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/639,912	Applicant(s) BENGELT ET AL	
	Examiner Annan Q. Shang	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 01/13/06 have been fully considered but they are not persuasive.

Applicant's affidavit under 37 C.F.R. 1.131 statement is insufficient to overcome the rejection under 35 U.S.C. 102(e) as being anticipated by **Weinberger et al (6,807,538)**. Swearing behind a reference must be supported by FACTS. Applicant should note MPEP 715.07 and MPEP 2138.06, on DILIGENCE REQUIRED IN PREPARING AND FILING PATENT APPLICATION

The evidence submitted is insufficient to establish a diligence from a date prior to the date of reduction to practice of Weinberger reference to either a constructive reduction to practice or an actual reduction to practice.

It also appears from the various cited MPEP patent procedure and rules that, Applicant waited almost two years from the date of conception to file an application. Hence Applicant declaration under 37 C.F.R 1.131, is not enough to overcome the prior art of record Weinberger, the rejections are hereby maintained and repeated below and made Final.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-21 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by **Weinberger et al (6,807,538)**.

With respect to claim 1, note the **Weinberger** reference figures 1-3, discloses passenger entertainment system, method and article of manufacture employing object oriented system software and further disclose a system for providing data content to plurality of mobile platforms (Aircraft(s) 111) via at least one satellite (115a or 115b) having at least one radio frequency (RF) transponder, and for transmitting data content from the mobile platforms via the RF transponder to a ground-based control center (Ground Based Computers 'GBC' 112 and Internet 113), comprising:

an independent mobile system (Total Entertainment System 'Enter-S' 100, fig. 1 and col. 5, line 55-col. 6, line 4) associated with each of the Aircraft 111 and carried by Aircraft 111;

a ground-based antenna system (Satellite 114, col. 6, lines 22-26) associated with GBC-112 for transmitting encoded RF signals representative of the content via designated RF transponder of Satellite 115a or 115b, with a plurality of transponders, where Satellite 115a-b orbit over a desired geographical coverage area within Enter-S 100 (col. 6, lines 26-49) to Aircraft 111;

each Enter-S 100 comprising:

a steerable transmit antenna and steerable receive Antenna control system (Antenna 116, col. 6, lines 41-49), which receives/transmits video and data signals and tracks satellites 115a-b;

a communications subsystem or system and a data content management system (Head end 'HE' 200, col. 6, lines 5-16, col. 7, line 66, col. 8, line 16 and col. 9, line 8+) in communication with Antenna 116 for generating baseband video signals and data signals, representative of live television programming and Internet data (col. 6, lines 38-col. 7, line 2) decoding and demodulating the encoded RF signals received by receive Antenna 116, and for producing encoded signals from the data transmissions input by each of a plurality of occupants for filtering of portions or subset of the data content not addressed to occupants (attendants or passengers 'Pass-117', col. 5, line 59-col. 6, line 4) on the mobile system (Enter-S 100, col. 6, lines 13-21 and col. 12, line 59-col. 13, line 1+), note that HE 200 is the prime interface between hardware and operators and also includes file server 268 (col. 8, line 5-44);

a network, local area network 'LAN' and distribution system (Area Distribution Equipment 'Area-DE' 210, figs. 1, 2, col. 11, line 66-col. 12, line 31) for distributing the baseband video signals and the data signals output from the data management system (HE 200) to occupants (Pass-117), the network (Area-DE 210) including a plurality of access stations (Seat Group Equipment 'Seat-GE 220, fig. 7, col. 6, lines 13-21 and col. 12, line 59-col. 13, line 1+) which includes personal computing devices (PCs, col. 13, lines 12-36 and col. 16, lines 5-22) for Internet data services, where the individual passengers receive only specific subportions or portions (col. 6, line 50-col. 7, line 17,

line 44-57 and col. 8, line 28-61) of the baseband video signals and the data signals, television program and Internet data, relating to previous information selections made by Pass-117; and

the independent mobile system (Enter-S 100) also operating to transmit the signals input by each Pass-117 from each of the access station (Seat-GE 220), via the Satellite 115a-b, to the ground-based antenna system (Satellite 114), (col. 6, line 50-col. 7, line 17, line 44-57, col. 8, line 28-61 and col. 10, line 16-col. 11, line 1+), note that each passenger can order various services in real time, including VOD services, order products, downloading of video games, movies, audio, telephone services (col. 9, line 41-col. 10, line 8 and col. 18, lines 50-59), and other interactive services to meet each Pass-117 request (col. 13, lines 12-36 and col. 16, lines 5-22).

As to claim 6, the claimed "system for providing real time video signals to mobile receiving platform via a satellite having at least one radio frequency (RF) transponder...comprising..." is composed of the same structural element of rejected claim 1.

As to claim 7, Weinberger further discloses HE 200, includes a plurality of integrated receiver/decoders for decoding, demodulating and digital-to-analog converting received RF signals into baseband video signals (col. 9, lines 8-60 and col. 13, line 49-col. 14, line 14)

As to claim 8, Weinberger further discloses where the data content management system comprising Media Server and File server 268 (col. 8, lines 5-44 and col. 10, line 57-col. 11, line 10).

As to claims 9 and 10, Weinberger further discloses where the baseband signals represent live television signals and direct broadcast television signals as previously discussed with respect to claim 1.

As to claim 12, Weinberger further discloses where BSG-Station 114 operates to transmit encoded data signals to Transponder of Satellite 115a-b and where Antenna 116, which is associated with each Aircraft 111 demodulates and D/A convert the RF signals to produces baseband data signals (col. 5, line 59-col. 6, line 4, line 22-62 and col. 9, line 8-60).

As to claim 13, the claimed "system for supplying a plurality of channels of data content to a plurality of mobile platforms..." is composed of the same structural element of rejected claim 1.

Claim 14 is met as previously discussed with respect to claim 7.

Claim 15 is met as previously discussed with respect to claim 8.

Claim 16 is met as previously discussed with respect to claim 1.

Claim 17 is met as previously discussed with respect to claim 1.

As to claim 18, the claimed "system for enabling individual occupants on board a moving platform to transmit and receive data content in real time from a ground based data source..." is composed of the same structural element of rejected claim 1.

Claim 19 is met as previously discussed with respect to claim 5.

Claim 20 is met as previously discussed with respect to claim 1.

As to claim 21, the claimed "system for facilitating bi-directional communication between a ground-based control center and a plurality of mobile platforms..." contains the same structural element of rejected claim 1.

As to claim 23, the claimed "a method of transmitting data content between mobile receiving platform and a ground-based control segment, comprising..." is composed of the same structural element of rejected claim 1.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Weinberger et al (6,807,538)** as applied to claim 21 above, and in view of **Martin et al (6,061,562)**.

As to claim 22, Weinberger further discloses an electronically steerable Ant-116, but fails to explicitly teach phased array antenna.

However, **Martin** teaches an electronically steerable multi-beam, phase array antenna for aircraft communications (figs. 1-2, 4, 8, col. 1, line 59-64, col. 4, line 34-48 and col. 5, lines 30-42).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Martin into the system of Mitchell to



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provide electronically steerable, phase array antenna for produced a narrow beam which can be steered over a wide solid angle and fired outwards without been obstructed by any part of the aircraft structure.

### ***Conclusion***

**6. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**7.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone

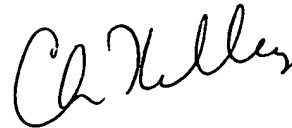
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number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



**Annan Q. Shang**



**CHRIS KELLEY**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**